



General Assembly

Amendment

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LCO No. 4166

HB0522104166SR0

Offered by:

SEN. MCKINNEY, 28th Dist.
SEN. FASANO, 34th Dist.
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To: Subst. House Bill No. 5221

File No. 147

Cal. No. 346

"AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 54-125a of the 2014 supplement to the general
4 statutes is repealed and the following is substituted in lieu thereof
5 (*Effective October 1, 2014*):

6 (a) A person convicted of one or more crimes who is incarcerated on
7 or after October 1, 1990, who received a definite sentence or aggregate
8 sentence of more than two years, and who has been confined under
9 such sentence or sentences for not less than one-half of the aggregate
10 sentence less any risk reduction credit earned under the provisions of
11 section 18-98e or one-half of the most recent sentence imposed by the

12 court less any risk reduction credit earned under the provisions of
13 section 18-98e, whichever is greater, may be allowed to go at large on
14 parole in the discretion of the panel of the Board of Pardons and
15 Paroles for the institution in which the person is confined, if (1) it
16 appears from all available information, including any reports from the
17 Commissioner of Correction that the panel may require, that there is a
18 reasonable probability that such inmate will live and remain at liberty
19 without violating the law, and (2) such release is not incompatible with
20 the welfare of society. At the discretion of the panel, and under the
21 terms and conditions as may be prescribed by the panel including
22 requiring the parolee to submit personal reports, the parolee shall be
23 allowed to return to the parolee's home or to reside in a residential
24 community center, or to go elsewhere. The parolee shall, while on
25 parole, remain under the jurisdiction of the board until the expiration
26 of the maximum term or terms for which the parolee was sentenced
27 less any risk reduction credit earned under the provisions of section
28 18-98e. Any parolee released on the condition that the parolee reside in
29 a residential community center may be required to contribute to the
30 cost incidental to such residence. Each order of parole shall fix the
31 limits of the parolee's residence, which may be changed in the
32 discretion of the board and the Commissioner of Correction. Within
33 three weeks after the commitment of each person sentenced to more
34 than two years, the state's attorney for the judicial district shall send to
35 the Board of Pardons and Paroles the record, if any, of such person.

36 (b) (1) No person convicted of any of the following offenses, which
37 was committed on or after July 1, 1981, shall be eligible for parole
38 under subsection (a) of this section: (A) Capital felony, as provided
39 under the provisions of section 53a-54b in effect prior to April 25, 2012,
40 (B) murder with special circumstances, as provided under the
41 provisions of section 53a-54b in effect on or after April 25, 2012, (C)
42 felony murder, as provided in section 53a-54c, (D) arson murder, as
43 provided in section 53a-54d, (E) murder, as provided in section 53a-
44 54a, or (F) aggravated sexual assault in the first degree, as provided in
45 section 53a-70a. (2) A person convicted of (A) a violation of section 53a-

46 100aa or 53a-102, or (B) an offense, other than an offense specified in
47 subdivision (1) of this subsection, where the underlying facts and
48 circumstances of the offense involve the use, attempted use or
49 threatened use of physical force against another person shall be
50 ineligible for parole under subsection (a) of this section until such
51 person has served not less than eighty-five per cent of the definite
52 sentence imposed.

53 (c) The Board of Pardons and Paroles shall, not later than July 1,
54 1996, adopt regulations in accordance with chapter 54 to ensure that a
55 person convicted of an offense described in subdivision (2) of
56 subsection (b) of this section is not released on parole until such person
57 has served eighty-five per cent of the definite sentence imposed by the
58 court. Such regulations shall include guidelines and procedures for
59 classifying a person as a violent offender that are not limited to a
60 consideration of the elements of the offense or offenses for which such
61 person was convicted.

62 (d) The Board of Pardons and Paroles may hold a hearing to
63 determine the suitability for parole release of any person whose
64 eligibility for parole release is not subject to the provisions of
65 subsection (b) of this section upon completion by such person of
66 seventy-five per cent of such person's definite or aggregate sentence
67 less any risk reduction credit earned under the provisions of section
68 18-98e. An employee of the board or, if deemed necessary by the
69 chairperson, a panel of the board shall assess the suitability for parole
70 release of such person based on the following standards: (1) Whether
71 there is reasonable probability that such person will live and remain at
72 liberty without violating the law, and (2) whether the benefits to such
73 person and society that would result from such person's release to
74 community supervision substantially outweigh the benefits to such
75 person and society that would result from such person's continued
76 incarceration. If a hearing is held, and if the board determines that
77 continued confinement is necessary, the board shall articulate for the
78 record the specific reasons why such person and the public would not
79 benefit from such person serving a period of parole supervision while

80 transitioning from incarceration to the community. If a hearing is not
81 held, the board shall document the specific reasons for not holding a
82 hearing and provide such reasons to such person. No person shall be
83 released on parole without receiving a hearing. The decision of the
84 board under this subsection shall not be subject to appeal.

85 (e) The Board of Pardons and Paroles may hold a hearing to
86 determine the suitability for parole release of any person whose
87 eligibility for parole release is subject to the provisions of subdivision
88 (2) of subsection (b) of this section upon completion by such person of
89 eighty-five per cent of such person's definite or aggregate sentence. An
90 employee of the board or, if deemed necessary by the chairperson, a
91 panel of the board shall assess the suitability for parole release of such
92 person based on the following standards: (1) Whether there is a
93 reasonable probability that such person will live and remain at liberty
94 without violating the law, and (2) whether the benefits to such person
95 and society that would result from such person's release to community
96 supervision substantially outweigh the benefits to such person and
97 society that would result from such person's continued incarceration. If
98 a hearing is held, and if the board determines that continued
99 confinement is necessary, the board shall articulate for the record the
100 specific reasons why such person and the public would not benefit
101 from such person serving a period of parole supervision while
102 transitioning from incarceration to the community. If a hearing is not
103 held, the board shall document the specific reasons for not holding a
104 hearing and provide such reasons to such person. No person shall be
105 released on parole without receiving a hearing. The decision of the
106 board under this subsection shall not be subject to appeal.

107 (f) (1) Notwithstanding the provisions of subsections (a) to (e),
108 inclusive, of this section, a person convicted of one or more crimes
109 committed while such person was under eighteen years of age, who is
110 incarcerated on or after October 1, 2014, and who received a definite
111 sentence or aggregate sentence of more than fifty years for such crimes
112 prior to, on or after October 1, 2014, may be allowed to go at large on
113 parole in the discretion of the panel of the Board of Pardons and

114 Paroles for the institution in which such person is confined after
115 serving thirty years. Nothing in this subsection shall limit a person's
116 eligibility for parole release under the provisions of subsections (a) to
117 (e), inclusive, of this section if such person would be eligible for parole
118 release at an earlier date under any of such provisions.

119 (2) The board shall apply the parole eligibility rules of this
120 subsection only with respect to the sentence for a crime or crimes
121 committed while a person was under eighteen years of age. Any
122 portion of a sentence that is based on a crime or crimes committed
123 while a person was eighteen years of age or older shall be subject to
124 the applicable parole eligibility, suitability and release rules set forth in
125 subsections (a) to (e), inclusive, of this section.

126 (3) Whenever a person becomes eligible for parole release pursuant
127 to this subsection, the board shall hold a hearing to determine such
128 person's suitability for parole release. At least twelve months prior to
129 such hearing, the board shall notify the office of Chief Public Defender,
130 the appropriate state's attorney, the Victim Services Unit within the
131 Department of Correction, the Office of the Victim Advocate and the
132 Office of Victim Services within the Judicial Department of such
133 person's eligibility for parole release pursuant to this subsection. The
134 office of Chief Public Defender shall assign counsel for such person
135 pursuant to section 51-296 if such person is indigent. At any hearing to
136 determine such person's suitability for parole release pursuant to this
137 subsection, the board shall permit (A) such person to make a statement
138 on such person's behalf, (B) counsel for such person and the state's
139 attorney to submit reports and other documents, and (C) any victim of
140 the crime or crimes to make a statement pursuant to section 54-126a.
141 The board may request testimony from mental health professionals or
142 other relevant witnesses, and reports from the Commissioner of
143 Correction or other persons, as the board may require. The board shall
144 use validated risk assessment and needs assessment tools and its risk-
145 based structured decision making and release criteria established
146 pursuant to subsection (d) of section 54-124a in making a
147 determination pursuant to this subsection.

148 (4) After such hearing, the board may allow such person to go at
149 large on parole with respect to any portion of a sentence that was
150 based on a crime or crimes committed while such person was under
151 eighteen years of age after considering the nature of the crime, the
152 factors described in subsection (i) of section 53a-46a and the testimony
153 of any victim at such hearing if the board finds that such parole release
154 would be consistent with the factors set forth in subdivisions (1) to (4),
155 inclusive, of subsection (c) of section 54-300 and if it appears, from all
156 available information, including, but not limited to, any reports from
157 the Commissioner of Correction, that (A) there is a reasonable
158 probability that such person will live and remain at liberty without
159 violating the law; (B) the benefits to such person and society that
160 would result from such person's release to community supervision
161 substantially outweigh the benefits to such person and society that
162 would result from such person's continued incarceration; and (C) such
163 person has demonstrated substantial rehabilitation since the date such
164 crime or crimes were committed considering such person's character,
165 background and history, as demonstrated by factors, including, but
166 not limited to, such person's correctional record, the age and
167 circumstances of such person as of the date of the commission of the
168 crime or crimes, whether such person has demonstrated remorse and
169 increased maturity since the date of the commission of the crime or
170 crimes, such person's contributions to the welfare of other persons
171 through service, such person's efforts to overcome substance abuse,
172 addiction, trauma, lack of education or obstacles that such person may
173 have faced as a child or youth in the adult correctional system, the
174 opportunities for rehabilitation in the adult correctional system and the
175 overall degree of such person's rehabilitation considering the nature
176 and circumstances of the crime or crimes.

177 (5) After such hearing, the board shall articulate for the record its
178 decision and the reasons for its decision. If the board determines that
179 continued confinement is necessary, the board may reassess such
180 person's suitability for a new parole hearing at a later date to be
181 determined at the discretion of the board, but not earlier than two

182 years after the date of its decision.

183 (6) The decision of the board under this subsection shall not be
184 subject to appeal.

185 ~~[(f)]~~ (g) Any person released on parole under this section shall
186 remain in the custody of the Commissioner of Correction and be
187 subject to supervision by personnel of the Department of Correction
188 during such person's period of parole.

189 Sec. 2. (NEW) (*Effective October 1, 2014*) (a) If the case of a child, as
190 defined in section 46b-120 of the general statutes, is transferred to the
191 regular criminal docket of the Superior Court pursuant to section 46b-
192 127 of the general statutes, as amended by this act, and the child is
193 convicted of a class A or B felony pursuant to such transfer, except a
194 class A felony that is subject to subsection (b) of this section, at the time
195 of sentencing, the court shall:

196 (1) Consider, in addition to any other information relevant to
197 sentencing, any scientific and psychological evidence showing the
198 differences between a child's brain development and an adult's brain
199 development, including, but not limited to, evidence showing, as
200 compared to an adult: (A) A child's lack of maturity and
201 underdeveloped sense of responsibility, including evidence showing a
202 child's recklessness, impulsivity and risk-taking tendencies; (B) a
203 child's vulnerability to negative influences and outside pressures from
204 peers or family members, or both; (C) a child's increased capacity for
205 change and rehabilitation; and (D) a child's reduced competency in (i)
206 appreciating the risks and consequences of his or her own actions, (ii)
207 negotiating the complexities of the criminal justice system, and (iii)
208 assisting in his or her own defense; and

209 (2) Consider, if the court proposes to sentence the child to a lengthy
210 sentence under which it is likely that the child will die while
211 incarcerated, how the scientific and psychological evidence described
212 in subdivision (1) of this subsection counsels against such a sentence.

213 (b) If the case of a child, as defined in section 46b-120 of the general
214 statutes, is transferred to the regular criminal docket of the Superior
215 Court pursuant to section 46b-127 of the general statutes, as amended
216 by this act, and the child is convicted pursuant to such transfer of a
217 capital felony committed prior to April 25, 2012, punishable in
218 accordance with subparagraph (A) of subdivision (1) of section 53a-35a
219 of the general statutes, murder with special circumstances committed
220 on or after April 25, 2012, punishable as a class A felony in accordance
221 with subparagraph (B) of subdivision (1) of section 53a-35a of the
222 general statutes, murder under section 53a-54d of the general statutes,
223 or any other crime punishable by a term of life imprisonment without
224 the possibility of release, at the time of sentencing, the court shall
225 consider the factors set forth in subparagraphs (A) to (D), inclusive, of
226 subdivision (1) of subsection (a) of this section and the factors
227 described in subsection (i) of section 53a-46a of the general statutes.

228 (c) Notwithstanding the provisions of section 54-91a of the general
229 statutes, no presentence investigation or report may be waived with
230 respect to a child described in subsection (a) or (b) of this section. Any
231 presentence report prepared with respect to a child described in
232 subsection (a) or (b) of this section shall address the factors set forth in
233 subparagraphs (A) to (D), inclusive, of subdivision (1) of subsection (a)
234 of this section.

235 (d) The Court Support Services Division of the Judicial Branch shall
236 establish reference materials relating to adolescent psychological and
237 brain development to assist courts in sentencing children pursuant to
238 this section.

239 Sec. 3. Subsection (c) of section 46b-127 of the 2014 supplement to
240 the general statutes is repealed and the following is substituted in lieu
241 thereof (*Effective October 1, 2014*):

242 (c) Upon the effectuation of the transfer, such child shall stand trial
243 and be sentenced, if convicted, as if such child were eighteen years of
244 age, subject to the requirements of section 2 of this act. Such child shall

245 receive credit against any sentence imposed for time served in a
246 juvenile facility prior to the effectuation of the transfer. A child who
247 has been transferred may enter a guilty plea to a lesser offense if the
248 court finds that such plea is made knowingly and voluntarily. Any
249 child transferred to the regular criminal docket who pleads guilty to a
250 lesser offense shall not resume such child's status as a juvenile
251 regarding such offense. If the action is dismissed or nolleed or if such
252 child is found not guilty of the charge for which such child was
253 transferred or of any lesser included offenses, the child shall resume
254 such child's status as a juvenile until such child attains the age of
255 eighteen years.

256 Sec. 4. Subsection (f) of section 46b-133c of the general statutes is
257 repealed and the following is substituted in lieu thereof (*Effective*
258 *October 1, 2014*):

259 (f) Whenever a proceeding has been designated a serious juvenile
260 repeat offender prosecution pursuant to subsection (b) of this section
261 and the child does not waive such child's right to a trial by jury, the
262 court shall transfer the case from the docket for juvenile matters to the
263 regular criminal docket of the Superior Court. Upon transfer, such
264 child shall stand trial and be sentenced, if convicted, as if such child
265 were eighteen years of age, subject to the requirements of section 2 of
266 this act, except that no such child shall be placed in a correctional
267 facility but shall be maintained in a facility for children and youths
268 until such child attains eighteen years of age or until such child is
269 sentenced, whichever occurs first. Such child shall receive credit
270 against any sentence imposed for time served in a juvenile facility
271 prior to the effectuation of the transfer. A child who has been
272 transferred may enter a guilty plea to a lesser offense if the court finds
273 that such plea is made knowingly and voluntarily. Any child
274 transferred to the regular criminal docket who pleads guilty to a lesser
275 offense shall not resume such child's status as a juvenile regarding
276 such offense. If the action is dismissed or nolleed or if such child is
277 found not guilty of the charge for which such child was transferred,
278 the child shall resume such child's status as a juvenile until such child

279 attains eighteen years of age.

280 Sec. 5. Subsection (f) of section 46b-133d of the general statutes is
 281 repealed and the following is substituted in lieu thereof (*Effective*
 282 *October 1, 2014*):

283 (f) When a proceeding has been designated a serious sexual
 284 offender prosecution pursuant to subsection (c) of this section and the
 285 child does not waive the right to a trial by jury, the court shall transfer
 286 the case from the docket for juvenile matters to the regular criminal
 287 docket of the Superior Court. Upon transfer, such child shall stand trial
 288 and be sentenced, if convicted, as if such child were eighteen years of
 289 age, subject to the requirements of section 2 of this act, except that no
 290 such child shall be placed in a correctional facility but shall be
 291 maintained in a facility for children and youths until such child attains
 292 eighteen years of age or until such child is sentenced, whichever occurs
 293 first. Such child shall receive credit against any sentence imposed for
 294 time served in a juvenile facility prior to the effectuation of the
 295 transfer. A child who has been transferred may enter a guilty plea to a
 296 lesser offense if the court finds that such plea is made knowingly and
 297 voluntarily. Any child transferred to the regular criminal docket who
 298 pleads guilty to a lesser offense shall not resume such child's status as
 299 a juvenile regarding such offense. If the action is dismissed or nolleed or
 300 if such child is found not guilty of the charge for which such child was
 301 transferred, the child shall resume such child's status as a juvenile until
 302 such child attains eighteen years of age."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	54-125a
Sec. 2	<i>October 1, 2014</i>	New section
Sec. 3	<i>October 1, 2014</i>	46b-127(c)
Sec. 4	<i>October 1, 2014</i>	46b-133c(f)
Sec. 5	<i>October 1, 2014</i>	46b-133d(f)